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January 31, 2017

Christine Hoard
Environmental Protection Specialist (AWMD/CORP)
US EPA, Region VII
11201 Renner Blvd.
Lenexa, KS 66219
Hoard.Christine@EPA.gov

Dear Christine,

On behalf of Big Ox Energy, LLC ("Big Ox"), we hereby acknowledge receipt on January 30, 2017 of your U.S. Environmental Protection Agency ("EPA") Region VII's Comprehensive Emergency Response, Compensation and Liability Act ("CERCLA") information request, dated December 22, 2016. Please see the attached tracking information for the original delivery attempt (Exhibit A). We understand EPA is requesting for a response by March 1st.

Previous Responses to EPA Information Request

We are attaching here two recent responses to information requests previously sent by Region VII to Big Ox under the Clean Water Act ("CWA") (Exhibit B) and the Clean Air Act ("CAA") (Exhibit C). These prior responses and the attached consultant reports contained therein are fully responsive to your overlapping questions now raised under CERCLA and should obviate the need for the new CERCLA information request. For example, Big Ox's prior response to Question 12 in EPA's CAA information request summarized the relevant facts that resulted in the cited worker exposure to biogas that occurred on December 14, 2016, and the answers to Questions 11 and 12

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in that CAA response address the amounts of methane and hydrogen sulfide present at the facility. As you requested, the information on permits and wastewater issues are contained in Big Ox's response to EPA's CWA information request.

We have been in regular contact through calls and emails with Pat Miller and Anne Rauch at Region VII, who we understand are serving as the lead counsel coordinating this enforcement matter; a potential CERCLA information request has never been mentioned in our prior communications. In an effort to avoid duplicative and redundant work by both EPA and Big Ox, we urge Region VII to review all these responses and coordinate among the three EPA media offices, and then inform Big Ox on whether and why there are any remaining gaps that still need to be filled in a response to the overly broad CERCLA information request.

Confidential Business Information Claim

CERCLA allows a regulated entity to request that EPA protect as confidential business information ("CBI") and not disclose to the public investigative information and data that would divulge methods or processes entitled to protection as "trade secrets." EPA must consider all information, including information obtained during inspections, as confidential. 42 U.S.C. § 9604(e)(7). Big Ox's facility uses proprietary technology that meets the definition of a "trade secret" in part because the process is unique in the United States, and public access to the information could dramatically impact Big Ox's businesses, competitive position, and future prospects. Big Ox's manner of treating the waste that it receives—including methods of receiving feedstocks, feedstock types, system capacities, intake volumes, heating methods, temperatures, pH, mixing and blending procedures, and additives—are part of its trade secrets that separate its options from the competition. Big Ox cannot disclose its customer base per agreements with these feedstock suppliers, and has also promised to protect the specifications of the material they supply to Big

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Ox. Big Ox has fewer than 20 customers and making any of their information publicly known may lead to interest from competitors and loss in market share for Big Ox.

EPA has recognized that “[d]isclosure to the public of allegedly confidential information is an irreversible act. When there is substantial doubt about the propriety of release, the Agency should act in a manner which would preserve the issues for possible judicial resolution, rather than in a manner which would not only moot the matter from a judicial standpoint but also expose agency officers and employees to possible criminal prosecution under 18 U.S.C. § 1905.” See 40 Fed. Reg. 21,987, 21,990 (May 20, 1985). Here, if EPA even has a question whether documents and information related to Big Ox’s novel technology constitute trade secrets, EPA must treat them as confidential.

Big Ox claims all information submitted in response to this CERCLA information request and all information discovered or gathered by EPA during the facility and other inspections as confidential trade secrets. Big Ox requests that the information be permanently maintained as confidential.

While anaerobic digestion may be a common process, Big Ox has specific methods that are absolutely proprietary and critical to our competitive advantage in the marketplace. Business information getting into the wrong hands could be damaging to our future business prospects not only in South Sioux City, but on a national level. Furthermore, the customers with whom we have developed business relationships are in many cases global leaders in their own field, and their doing business with us may be considered a competitive advantage for those customers. These customers have an expectation that we will keep even the mere fact of an existing business relationship strictly confidential. Additionally, for our own competitive purposes, customer lists and details about those relationships, material types, and so on must remain confidential.

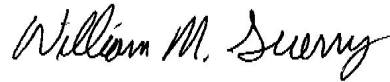
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We would like to schedule a joint call with you and the EPA team to discuss the most effective and efficient response to the overlapping information requests. In the meantime, please let us know if you have any questions. On behalf of Big Ox we look forward to working with you to address all EPA's issues and questions.

Best regards,

A handwritten signature in black ink, reading "William M. Guerry". The signature is written in a cursive, flowing style.

William M. Guerry
Jonathan K. Cooperman